

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2), the Department of Inspections and Appeals hereby amends Chapter 67, “General Provisions for Elder Group Homes, Assisted Living Programs, and Adult Day Services,” Iowa Administrative Code.

These amendments provide clarification of rules related to nurse delegation in elder group homes, assisted living programs and adult day services. Previously, the Department had relied on Nursing Board rules to explain the provision of nursing services in assisted living programs, elder group homes and adult day services programs. Over time, the Department and affected groups determined that amendments were necessary to further clarify the provision of nursing services in these programs. The Department consulted with the Nursing Board and affected groups in writing regarding the amendments.

The Department does not believe that the amendments pose a financial hardship on any regulated entity or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 26, 2013, as **ARC 0809C**. Comments were received from the Iowa Health Care Association, LeadingAge Iowa and the Iowa Assisted Living Association. After consideration of the comments, the following changes were made:

The definition of “nurse delegation” in rule 481—67.1(231B,231C,231D) was further amended to state that licensed practical nurses may delegate within the scope of their license “with the supervision of a registered nurse.” The phrase “with the supervision of a registered nurse” had been removed in the Notice and, based on comments received, the Department determined the language is necessary to provide clarity.

Subrule 67.9(4) was amended to clarify that the program must have training records and staffing schedules on file, and documentation of training must include training of certified and noncertified staff on nurse-delegated procedures.

Paragraph 67.9(5)“a” was amended to clarify that the program’s newly hired registered nurse is the one with 60 days to document a review to ensure that staff are sufficiently trained and competent in all tasks assigned or delegated.

Paragraph 67.9(5)“b” was rewritten to clarify that all program staff must receive training within 30 days of beginning employment.

One commenter noted that the language in paragraph 67.9(5)“d” implies that wound care, pain management, rehabilitation needs and hospice care are required curriculum. By placing this list in parenthesis and using “e.g.” (“for example”), the paragraph lists these as merely examples of the type of training that may be provided. No changes to the paragraph were made.

One commenter suggested that paragraph 67.9(5)“d” required further amendment to clarify whether the training needed to be done every time there was a change of the program registered nurse. Subrule 67.9(5) may be read as a whole to determine when training is required. No changes to the paragraph were made.

One commenter asked the Department to define “temporary absence” in paragraph 67.9(5)“h.” It is up to the program and the nurse assuming the duties of the program’s registered nurse to determine if the length of a temporary absence by the program’s registered nurse requires more than what is required by the paragraph, such as retraining of staff or redelegation of nursing tasks. No changes to the paragraph were made.

In addition, cross references in Items 4 and 5 were updated to reflect the change in numbering made in Item 2 of **ARC 0963C** herein.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 231C.3(1).

These amendments shall become effective September 25, 2013.

The following amendments are adopted.

ITEM 1. Amend rule **481—67.1(231B,231C,231D)**, definition of “Nurse delegation,” as follows:
“*Nurse delegation*” means the action of a registered nurse, advanced registered nurse practitioner, or licensed practical nurse to direct competent individuals certified and noncertified staff to perform selected nursing tasks in selected situations. ~~pursuant to subrule 655—6.2(5), paragraph “c.”~~ The decision of a nurse to delegate is based on the delegation process, including assessment, planning, implementation, supervision, and evaluation of the tenant, nursing tasks, personnel, and the situation. The nurse, as a licensed professional, retains accountability for the delegation process and the decision to delegate. Licensed practical nurses ~~are allowed to~~ may delegate within the scope of their license with the supervision of a registered nurse.

ITEM 2. Rescind the definition of “Nurse-delegated assistance” in rule **481—67.1(231B,231C,231D)**.

ITEM 3. Adopt the following new definitions in rule **481—67.1(231B,231C,231D)**:
“*Assignment*” means the distribution of work for which each staff member, regardless of certification or licensure status, is responsible during a given work period and includes a nurse directing an individual to do something the individual is already authorized to do.
“*Certified staff*” means certified nursing assistants (CNAs) and certified medication assistants (CMAs) employed by the program.
“*Direct supervision*” means the provision of guidance and oversight of a delegated nursing task through the physical presence of the licensed nurse to observe and direct certified and noncertified staff.
“*Indirect supervision*” means the provision of guidance and oversight of a delegated nursing task through means other than direct supervision, including written and verbal communication.
“*Noncertified staff*” means unlicensed and uncertified personnel employed by the program.
“*Program staff*” means all employees of the program, regardless of certification or licensure status.

ITEM 4. Amend paragraph **67.5(2)“c”** as follows:
c. The program assumes partial control of medication setup at the direction of the tenant. The medication plan shall not be implemented by the program unless the program’s registered nurse deems it appropriate under applicable requirements, including those in ~~655—Chapter 6 governing nurse delegation~~ Iowa Code section 231C.16A and subrule 67.9(4). The program’s registered nurse must agree to the medication plan.

ITEM 5. Amend subrule 67.5(6) as follows:
67.5(6) When medications are administered traditionally by the program:
a. The administration of medications shall be provided by a registered nurse, licensed practical nurse or advanced registered nurse practitioner registered in Iowa or by ~~unlicensed assistive personnel~~ certified and noncertified staff in accordance with ~~requirements in 655—Chapter 6 governing nurse delegation~~ subrule 67.9(4).
b. and *c.* No change.

ITEM 6. Amend subrules 67.9(1), 67.9(2) and 67.9(4) to 67.9(6) as follows:
67.9(1) *Number of staff.* A sufficient number of trained staff shall be available at all times to fully meet tenants’ identified needs.
67.9(2) *Emergency procedures.* All program staff shall be able to implement the accident, fire safety, and emergency procedures.
67.9(4) *Training documentation.* The program shall have training records and staffing plans schedules on file and shall maintain documentation of training received by program staff, including training of certified and noncertified staff on nurse-delegated procedures.
67.9(5) *Nurse delegation procedures.* ~~Any nursing services shall be provided in accordance with Iowa Code chapter 152 and 655—Chapter 6.~~ The program’s registered nurse shall ensure certified and noncertified staff are competent to meet the individual needs of tenants. Nurse delegation shall, at a minimum, include the following:

a. The program's newly hired registered nurse shall within 60 days of beginning employment as the program's registered nurse document a review to ensure that staff are sufficiently trained and competent in all tasks that are assigned or delegated.

b. Within 30 days of beginning employment, all program staff shall receive training by the program's registered nurse(s).

c. Training for noncertified staff shall include, at a minimum, the provision of activities of daily living and instrumental activities of daily living.

d. Certified and noncertified staff shall receive training regarding service plan tasks (e.g., wound care, pain management, rehabilitation needs and hospice care) in accordance with medical or nursing directives and the acuity of the tenants' health, cognitive or functional status.

e. The program's registered nurse(s) shall provide direct or indirect supervision of all certified and noncertified staff as necessary in the professional judgment of the program's registered nurse and in accordance with the needs of the tenants and certified and noncertified staff.

f. Services shall be provided to tenants in accordance with the training provided.

g. The program shall have in place a system by which certified or noncertified staff communicate in writing occurrences that differ from the tenant's normal health, functional and cognitive status. The program's registered nurse or designee shall train certified and noncertified staff on reporting to the program's registered nurse or designee and documenting occurrences that differ from the tenant's normal health, functional and cognitive status. The written communication required by this paragraph shall be retained by the program for a period of not less than three years, and shall be accessible to the department upon request.

h. In the absence of the program's registered nurse due to vacation or other temporary circumstances, the nurse assuming the duties of the program's registered nurse shall have access to staff training in relation to tenant needs.

67.9(6) *Prohibited services.* A program staff member shall not be designated as attorney-in-fact, guardian, conservator, or representative payee for a tenant unless the program staff member is related to the tenant by blood, marriage, or adoption.

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